IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.18275 of 1997

Dated: 29-01-2007

Between:

Yetavali Lingamma, d/o late Narasimha,
aged about 65 years, agriculture,
r/o Yerraram village, Gundlapali Mandal,
Nalgonda District.

... Petitioner

and

1. The Mandal Revenue Officer,
   Gundlapalli,
   Nalgonda District and 4 others.

... Respondents

ORDER:

This petition is filed seeking *mandamus* declaring the action of first respondent in issuing XIII B certificate in favour of fourth respondent vide proceedings No.B/1406/92, dated 23-02-1995, which was confirmed by second respondent in case No.P/2975/95, dated 27-03-1997, as arbitrary and illegal and consequently direct the respondents to restore the patta in the name of petitioner.

2. It is the case of petitioner that her father was given patta in an extent of Ac.3-00 guntas in Sy.No.5 situated at

Yerraram village of Gundlapalli Mandal and after his death, being the sole legal heir, she succeeded the said land and she has been in continuous possession and enjoyment of the said land since long time. It is further stated that first respondent without issuing any notice to her, issued XIII B certificate in favour of fourth respondent in respect of the said land and thereupon petitioner filed appeal against issuing XIII B certificate before second respondent, who allowed the appeal directing first respondent to conduct fresh enquiry in this regard. The grievance of petitioner is that first respondent without issuing any notice and without conducting any enquiry passed order dated 23-02-1995 and second respondent mechanically dismissed the appeal preferred by her.

3. Heard learned counsel for the parties.

4. From the facts it appears that the order dated 23-02-1995 passed by first respondent is without affording any opportunity to petitioner.

The said order itself reads that on that day he visited the village on some other purpose, during the course of which petitioner as well as fourth respondent were absent, however, he made enquiries and during the course of the said enquiry certain facts have come into existence and accordingly the said order was passed. In fact, this is not what is expected from first respondent – Mandal Revenue Officer. Before holding an enquiry, the enquiry officer should have given sufficient opportunity enabling the petitioner to appear before him and explain his grievance.

It is only after affording sufficient opportunity and recording his grievance; the authority should have passed the said order. In the instant case, admittedly, first respondent has not afforded

sufficient opportunity to petitioner and hence the order dated 23-02-1995 as well as the order dated 27-03-1997 passed by the appellate authority i.e. second respondent, are wholly violative of principles of natural justice and accordingly the same are set aside. However, the first respondent is hereby directed to hold an enquiry by giving sufficient opportunity to petitioner as well as fourth respondent and then he may pass appropriate orders.

5. Accordingly, the writ petition is disposed of. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.29-01-2007
GLV